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10/582,568	06/12/2006	Yang Peng	CN030065	1752
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EXAMINER				
BENGZON, GREG C				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/582,568

Applicant(s)

PENG ET AL.

Examiner

GREG BENZON

Art Unit

2444

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SI/200)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date 03/12/2010

DETAILED ACTION

This application has been examined. Claims 1-18 are pending.

Making Final

Applicant's arguments filed 02/19/2010 have been fully considered but they are not persuasive.

The claim amendments regarding -- '*pre-stored content including at least a quality menu of the downloaded content, wherein the quality menu includes a plurality of quality options for the downloaded content*' -- alter the scope of the claims but do not overcome the disclosure by the prior art as shown below.

The Examiner is maintaining the rejection(s) using the same grounds for rejection and thus making this action **FINAL**.

Priority

This application claims benefits of priority from PCT Application PCT/IB04/52634 filed December 2, 2004 and Foreign Application 200310123353.2 filed December 15, 2003. (CHINA)

The effective date of the claims described in this application is December 15, 2003.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 03/12/2010 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Response to Arguments

Applicant's arguments filed 02/19/2010 have been fully considered but they are not persuasive.

The Applicant presents the following argument(s) *[in italics]*:

... none of the references refer to the pre-loaded content including a quality menu or that a quality of the downloaded content is transmitted based on the available or detected bandwidth, as is recited in the claims.

The Examiner respectfully disagrees with the Applicant.

The Examiner notes that the quality menu is not displayed to the user and that there is no interaction between the user and said quality menu. Thus the Examiner interprets said quality menu as rendering information.

Sato disclosed (re. Claim 1) reading a pre-stored content providing additional information regarding a content of said downloaded content;(Sato-Paragraph 46-

Paragraph 47, *the optical disk contains the disk ID and address information indicating website from which the content is downloaded from*)

However while Sato disclosed pre-stored content providing the URL address of the content source Sato did not disclose *pre-stored content including a quality menu*.

Pak Paragraph 39 disclosed adjusting the download process based on the user rendering device capabilities (Paragraph 34) such as hardware specifications, resolution, display size, and number of channels. Furthermore Pak figure 7 disclosed a content database containing different rendering options for each particular content requested by the user. The Examiner notes that the combination of *resolution, display size, and number of channels* represent the equivalent of a rendering quality, and the multiple rendering options are the equivalent to *a quality menu*.

The Examiner notes that at that at the time of the invention it was well-known to provide rendering options on a DVD and that storing additional information regarding the content on a DVD is also well-known.

At the time of the invention it would have been obvious to include the rendering device options by Pak such as hardware specifications, resolution, display size, and number of channels, with the pre-stored information disclosed by Sato, in for the user rendering device to match the rendering options before making the download request for content. This would an improvement on Pak because in Pak the client environment database does not account for variable network conditions.

Silen provides the disclosure and motivation for accounting for variable network conditions when downloading content over the network.

The motivation for said combination would have been, as suggested by Silen, to enable adjusting a presentation frame size based upon detected bandwidth in order to present the most suitable quality of the download content and avoid having the user make mistakes in manipulating the household appliances to effect a download. (Silen-Paragraph 8)

There would be no substantial innovation resulting in the combination of Pak with Sato-Silen because they are readily modified without breaking or teaching away from the invention and produce the same predictable result.

Specification

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

Claims 1,4,7,10,13,16 recite a limitation for 'reading pre-stored content regarding said downloaded content'.

There is insufficient antecedent basis for this limitation in the claim because the Examiner does not detect a downloading process and receiving the said downloaded content before the pre-stored content is read in the Applicant Specification.

The Applicant has stated that the download process occurs after, but not before, the pre-stored content is read.

The claim or claims must conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description.

The Examiner suggests using claim language found in Applicant Specification indicating '*content requiring downloading*'.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Salmonsén (US Patent 7209874) further in view of Sato (US Publication

2003/0041123) further in view of Pak (US Publication 2004/0267790) further in view of Silen (US Publication US 2002/0116518).

With respect to *'pre-stored content including at least a quality menu of the downloaded content, wherein the quality menu includes a plurality of quality options for the downloaded content'* the Examiner notes that the quality menu is not displayed to the user and that there is no interaction between the user and said quality menu. Thus the Examiner interprets said quality menu as rendering information.

Salmonsens disclosed (re. Claim 1) method for playing a content, comprising the steps of playing the downloaded content combined with the pre-stored content. (Salmonsens-Column 24 Lines 35-40, 'a web-enabled DVD player is able to combine content from a DVD disk with special network-accessed applications')

While Salmonsens substantially disclosed the claimed invention Salmonsens did not disclose (re. Claim 1) reading a pre-stored content providing additional information regarding a content of said downloaded content; detecting available bandwidth; sending a request for downloading the downloaded content according to the additional information regarding the downloaded content, wherein the request includes the information of the bandwidth, and receiving the downloaded content according with the detected bandwidth.

Salmonsens did not disclose (re. Claim 1) monitoring the available bandwidth to adjust a quality of the combined downloaded content and the pre-stored content.

Sato disclosed (re. Claim 1) reading a pre-stored content providing additional information regarding a content of said downloaded content;(Sato-Paragraph 46-Paragraph 47,*the optical disk contains the disk ID and address information indicating website from which the content is downloaded from*)

Pak disclosed (re. Claim 1) sending a request for downloading the downloaded content wherein the request includes the information of the bandwidth, and receiving the downloaded content according with the detected bandwidth.(Pak-Paragraph 39, *the client requests the content service server to download predetermined contents and transmits the environment information to the contents service server*)

Silen disclosed (re. Claim 1) detecting available bandwidth; (Silen-Paragraph 19-23) and downloading the requested content according to the bandwidth. (Silen-Paragraph 26-Paragraph 29)

Silen disclosed (re. Claim 1) monitoring the available bandwidth to adjust a quality of the combined downloaded content and the pre-stored content. (Silen-

Paragraph 33, *'query at regular intervals and determine if bandwidth is still acceptable, and if the bandwidth is not acceptable, adjust the presentation accordingly '*)

Salmonsens, Sato, Pak and Silen are analogous art because they present concepts and practices regarding presentation of media over a network. At the time of the invention it would have been obvious to combine Sato into Salmonsens. The motivation for said combination would have been to so that there is no need for the user to enter the address information manually. (Sato-Paragraph 16)

Similarly at the time of the invention it would have been obvious to combine Pak into Salmonsens-Sato. The motivation for said combination would have been to automatically send the client device environment information and avoid having the user make mistakes in manipulating the household appliances to effect a download. (Pak-Paragraph 9)

Similarly at the time of the invention it would have been obvious to combine Silen into Salmonsens-Sato-Pak. The motivation for said combination would have been to enable adjusting a presentation frame size based upon detected bandwidth in order to present the most suitable quality of the download content.

The Examiner notes that while Sato disclosed pre-stored content providing the URL address of the content source Sato did not disclose (re. Claim 1) *pre-stored content including at least a quality menu of the downloaded content, wherein the quality menu includes a plurality of quality options for the downloaded content'*.

Pak Paragraph 39 disclosed adjusting the download process based on the user rendering device capabilities (Paragraph 34) such as hardware specifications, resolution, display size, and number of channels. Furthermore Pak figure 7 disclosed a content database containing different rendering options for each particular content requested by the user. The Examiner notes that the combination of *resolution, display size, and number of channels* represent the equivalent of a rendering quality, and the multiple rendering options are the equivalent to a *quality menu*.

The Examiner notes that at that at the time of the invention it was well-known to provide rendering options on a DVD and that storing additional information regarding the content on a DVD is also well-known.

At the time of the invention it would have been obvious to include the rendering device options by Pak such as hardware specifications, resolution, display size, and number of channels, with the pre-stored information disclosed by Sato, in for the user rendering device to match the rendering options before making the download request for content. This would an improvement on Pak because in Pak the client environment database does not account for variable network conditions.

Silen provides the disclosure and motivation for accounting for variable network conditions when downloading content over the network.

The motivation for said combination would have been, as suggested by Silen, to enable adjusting a presentation frame size based upon detected bandwidth in order to

present the most suitable quality of the download content and avoid having the user make mistakes in manipulating the household appliances to effect a download. (Silen-Paragraph 8)

Thus Salmonsens-Sato-Pak-Silen disclosed (re. Claim 1) *pre-stored content including at least a quality menu of the downloaded content, wherein the quality menu includes a plurality of quality options for the downloaded content*'.

Claims 4,7 (re. method) is rejected on the same basis as Claim 1.

The motivation to combine described in the rejection for Claim 1 applies to Claims 4,7.

Claims 10,13,16 (re. a device) is rejected on the same basis as Claim 1.

The motivation to combine described in the rejection for Claim 1 applies to Claims 10,13,16.

Salmonsens-Sato-Pak-Silen disclosed (re. Claim 2,5,8,11,14,17) wherein the request includes a URL of a website on which the downloaded content is stored. (Silen-Paragraph 21)

The motivation to combine described in the rejection for Claim 1 applies to Claims 2,5,8,11,14,17.

Salmonsens-Sato-Pak-Silen disclosed (re. Claim 3,6,9,12,15,18) wherein the detecting step is arranged for detecting throughput of effective information transmitted within a specific period. (Silen-Paragraph 33)

The motivation to combine described in the rejection for Claim 1 applies to Claims 3,6,9,12,15,18.

Conclusion

Examiner's Note: Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please refer to the enclosed PTO-892 form.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GREG BENGZON whose telephone number is (571)272-3944. The examiner can normally be reached on Mon. thru Fri. 8 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on (571)272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/G. B./
Examiner, Art Unit 2444

/William C. Vaughn, Jr./
Supervisory Patent Examiner, Art Unit 2444